

REMARKS/ARGUMENTS

Applicant thanks the Examiner for the thorough consideration given the present application. Claims 1 – 6 are pending in the application. Claims 1 and 3-6 were rejected. Claim 2 was objected to, but would be allowable if rewritten in independent form.

By this amendment, Applicant has added new claims 7 and 8. The combination of features of claims 7 and 8 are supported by the second full paragraph on page 7 of the specification.

Objection was raised to the Abstract of the disclosure.

Applicant will advance arguments hereinbelow to illustrate the manner in which the presently claimed invention is patentably distinguishable from the cited and applied prior art. Reconsideration of the present application is respectfully requested.

Abstract

The Abstract was amended to delete the title at the top of the page.

Rejections Under 35 U.S.C. § 102(b)

In the Office Action of December 15, 2004, the Examiner rejected claims 1 and 3-6 under 35 U.S.C. § 102(b) as being anticipated by Matson (2,537,228).

It is respectfully submitted that claims 1 and 3-6 are not anticipated by the prior art cited by the Examiner. As set forth in Section 2131 of the MPEP Eighth Edition, August 2001 Latest Revision May 2004, page 2100-73:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)... "The identical invention must be shown in as complete detail as is contained in the ... claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)."

In rejecting claim 1, Examiner argues that reference line AB of Fig. 1 of Matson anticipates the first reference element of the present application. However, the reference line AB referred to by Examiner is an imaginary line of the drawing and is not a physical embodiment of Matson. Because reference line AB of Matson is not a physical embodiment, it cannot anticipate any element of the present application.

Further to the rejection of claim 1, independent claim 1 of the present application recites a combination including handles having substantially straight inner edges disposed along lines that intersect and are perpendicular to the rotational axis. Applicant respectfully submits that Matson fails to set forth such a handle.

The American Heritage Dictionary (2nd College Edition) defines "axis" as "a straight line about which a body or geometrical object rotates or may be conceived to rotate". (Emphasis added). Referring to FIG. 7 of the present application, the rotational axis (40) of the handles is a line passing longitudinally through the center of pivot pin (28). Claim 1 recites the limitation that the inner edges of the handles (best seen as (19a) and (20a) in FIGS. 8 and 9 of the present application) be disposed along lines that intersect and are perpendicular to the rotational axis (best seen in FIGS. 3 and 4 of the present application).

Referring now to FIG. 3 of Matson, by definition the rotational axis (not shown) is a line passing longitudinally through the center of bolt (55). As seen in FIGS. 1, 2 and 5 of Matson, the inner edges of the extensible arms (58) and (60) do not lie along lines that intersect the rotational axis. The rotational axis is situated at the centers (width-wise) of the extensible arms rather than at the inner edges of the extensible arms. Accordingly, the Matson reference fails to teach or suggest the claimed features of independent claim 1 and may not be used as a basis for the rejection of claim 1.

Dependent claim 2 is objected to as being dependent upon a rejected base claim, and dependent claims 3 – 6 stand rejected under 35 U.S.C. 102(b) as being anticipated by Matson. Applicant respectfully submits that claims 2 and 3-6 are allowable due to their respective dependence upon allowable independent claim 1.

Furthermore, in rejecting claim 4 as being anticipated by Matson, Examiner asserts that FIG. 1 of Matson shows that one end of each of the sighting elements terminates at the rotational axis. Examiner states (Office Action, page 3, paragraph 2) that "the broadest reasonable interpretation of sighting element would include the inner edge of the first and second handles (see figure 2)". The relationship between the inner edges of the first and second handles and the rotational axis is best seen in FIGS. 2 and 5 of Matson. Clearly, the inner edges of the handles do not terminate at the rotational axis; instead, the inner edges of the handles extend beyond the rotational axis to racks (62) and (63). Accordingly, Applicant submits that the Matson reference fails to anticipate claim 4.

Furthermore, in rejecting claim 5 as being anticipated by Matson, Examiner asserts that FIG. 2 of Matson shows said base includes a second reference element extending from said rotational axis toward the top edge of said base and perpendicular to first reference element (reference line AB). FIG. 9 of the present application shows the relationship between the reference elements and the axis of rotation (center of pivot pin (28)) as recited in claim 5. The second reference element (39) extends from the rotational axis to the top edge (24a) of base (24). Referring now to FIG. 2 of Matson, the second reference element cited by Examiner (the dashed line not identified by a numeral and leader line extending from one slot (36) to the other slot (36)) clearly does not extend from said rotational axis. (emphasis added). Thus, the Matson reference fails to anticipate claim 5.

Moreover, in rejecting claim 6, Examiner states that "Matson shows said first reference element (reference line AB) comprises the top edge of said base (FIG. 1)." Applicant asserts that reference line AB does not comprise any of the edges of the base. The base is defined by the Examiner (Office Action, page 2, last paragraph), as "the combination of inner surface (34) and outer surface (38)". The American Heritage Dictionary (2nd College Edition) defines "edge" as "the line of intersection of two surfaces of a solid." The top edge of the base (analogous to reference number (24a) of the present application) is the leftmost edge of surface (34) as shown in FIG. 2 (the bottom edge of the base as shown in FIG. 1). Reference line AB is perpendicular to

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that edge and thus cannot comprise that edge. Furthermore, as reference line AB is an imaginary line of the drawing and does not comprise any physical embodiment, it does not comprise any edge of Matson. Thus, Applicant submits that the Matson reference fails to anticipate claim 6.

Conclusion

In view of the above remarks, it is believed that the claims clearly distinguish over the patent relied on by the Examiner. All the stated grounds of rejection have been properly traversed. Applicant therefore respectfully requests that the Examiner reconsider all presently pending rejections and that they be withdrawn.

If the Examiner has any questions about the present Reply or anticipates using a final rejection, a telephone interview is respectfully requested.

It is believed that a full and concise response has been made to the Office Action, and that as such, the Examiner is respectfully requested to send the application to Issue.

Respectfully submitted,

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